IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 435 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE D.H.WAGHELA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ZARINA YUSUFBHAI SINHA

Versus

STATE OF GUJARAT

Appearance:
MR NA SHAIKH for Petitioner
MR MUKESH PATEL, ld.AGP for Respondents Nos.1 & 2
MS SANGITA VISHEN for M/S TRIVEDI & GUPTA for Respondent No.3

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 26/04/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

Through this Special Civil Application, the petitioner has sought additional compensation for the standing crops of Sugarcane alleged to be standing on the acquired land on 1.6.1996 i.e. the alleged date of taking possession.

2. It is not in dispute that the compensation in terms of the consent award dated 15th July 1997 at the rate of Rs.2,08,000/- per Hectare has already been paid to the petitioner. The petitioner's case that the possession had been taken on 1.1.1996 has been seriously disputed by the respondents through the affidavit-in-reply dated 26th March 2001. It has also been stated in the reply that in fact the possession had been taken on 1.4.1997 and the amount of compensation was paid on 15th July 1997 and that on the date when the possession was taken i.e. 1.4.1997, there was no standing crop on the land. This averment made in the reply is also supported by the documentary evidence of contemporaneous nature placed on record by the respondent no.3 at page 82 of the paper book which is dated 15.7.1997, i.e. a point of time when there was no dispute between the parties and this document is duly signed by the petitioner herself on 15th July 1997 and as per the details mentioned in this document, there was neither any crop nor any trees. We, therefore, find that the case set up by the petitioner before us in this petition that the possession had been taken on 1.6.1996 and that there was standing crop on the date of possession is not believable and there is no question of any payment of compensation for the standing crops of Sugarcane as claimed by the petitioner. As against the bald allegation of the petitioner, the documentary evidence of contemporaneous nature signed by the petitioner herself cannot be ignored. We do not find any merit in this Special Civil Application. The same is hereby rejected. Rule is discharged with no order as to costs.

(M.R. Calla, J.)

(D.H.Waghela,J.)

Sreeram.